

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

TONNIE MALONE WARD,

Plaintiff,

v.

DOCKET NO: 2:21-cv-2417-JTF-cgc

**CITY OF MEMPHIS, Solid
Waste Division,**

Defendant.

MOTION TO DISMISS

Defendant City of Memphis (the “City”), by and through undersigned counsel, submits this its *Motion to Dismiss*, pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6). For the reasons stated in its contemporaneously-filed *Memorandum of Law in Support of its Motion to Dismiss*, Plaintiff has failed to adequately serve the City,¹ and alternatively, the Complaint fails to state a claim against the City upon which relief may be granted because Plaintiff failed to demonstrate that she exhausted her administrative remedies prior to filing this lawsuit. Consequently, the City respectfully requests the Court dismiss Plaintiff’s Complaint.

Respectfully submitted,

s/Tanner George Gibson

Tanner George Gibson (TN #27779)

Sarah E. Stuart (TN #35329)

BURCH, PORTER & JOHNSON, PLLC

130 North Court Avenue

Memphis, TN 38103

T: (901) 524-5000

Email: tgibson@bpjlaw.com

sstuart@bpjlaw.com

Counsel for Defendants

¹ Despite inadequate service of process, Counsel for the City makes a limited appearance to present the defenses available to it upon its recent learning of this suit from means other than effective service. In filing this Motion, the City expressly preserves all other defenses available to it.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was sent this 17th day of July, 2021 via the Court's electronic filing system to Plaintiff Tonnie Malone Ward, who is a registered CM/ECF user.

s/Tanner George Gibson _____